

## **REMARKS/ARGUMENTS**

In the outstanding Office Action, Claims 1-27 were examined. Claims 1-27 were rejected. In response to the above-identified Office Action, Claims 6, 8 and 10 are amended. Applicant respectfully requests reconsideration in view of the aforementioned amendments and the following remarks.

### **I. Claims Rejected Under 35 U.S.C. § 112**

Examiner rejects Claims 6-11 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In response, Applicant amends these claims to include the phrase of “against each other” at the end of Claims 6, 8 and 10 to overcome Examiner’s § 112 rejection. This amendment also corrects the deficiencies of Claims 7, 9 and 11, due to their dependencies from Claims 6, 8 and 10, respectively. Consequently, Applicant respectfully requests reconsideration and withdrawal of the 35 U.S.C § 112 rejection of Claims 6-11.

### **II. Claims Rejected Under 35 U.S.C. § 103(a)**

Examiner rejects Claims 1-27 under 35 U.S.C. § 103(a) as being unpatentable over U. S. Patent No. 6,898,762 issued to Ellis (“Ellis”). To establish a *prima facie* case of obviousness, the following criteria must be met: (1) there must be some suggestion or motivation to modify the reference or combine the reference teachings; (2) there must be a reasonable expectation of success; and (3) the prior art references must teach or suggest all the claim limitations (*see* MPEP § 2142). As explained below, Ellis does not teach or suggest all the claim limitations.

Ellis teaches a “client-server interactive television program guide system . . . The interactive television program guide **provides users with an opportunity to define expressions** that are processed by the program guide server” (emphasis added) (Ellis, Abstract). In the Office Action, Examiner relies on column 19, lines 13-15 and column 20, lines 42-45 of Ellis to teach Claim 1 where it recites “**receiving a feedback data** on the broadcast product from each of the plurality of clients **transparent to the user of the clients . . . processing a consumer feedback summary based on the feedback data** on the broadcast product to infer demand for an upcoming broadcast product that is yet to be scheduled for broadcasting over the broadcast

medium” (emphasis added). However, contrary to what Examiner has asserted, Ellis does not teach “receiving a feedback data on the broadcast product from each of the plurality of clients transparent to the user of the client” **because a user has to set the profile** before the program guide server in Ellis processes the feedback.

Specifically, column 20, lines 42-45 of Ellis, relied on by Examiner, contains a prerequisite that “**a user** has run the expression illustrated ... and **has set the user profiles of ...**, program guide server may determine that the movie Armageddon meets the criteria of the expression that was run, and also **meets the criteria of the current user profile (set by the users)**” (emphasis added) (Ellis, column 20, lines 31-36). **Because a user in Ellis has to manually set a user profile, the feedback data received by the program guide server cannot be entirely transparent (i.e. without a user knowing what is tracked).** Thus, Ellis fails to teach or suggest “receiving a feedback data on the broadcast product from each of the plurality of clients transparent to the user of the clients.” Consequently, Applicant respectfully requests reconsideration and withdrawal of the § 103(a) rejection of Claim 1.

Regarding independent Claims 14 and 23, these two claims contain elements similar to those of Claim 1. As a result, Ellis does not teach or suggest each and every element of Claims 14 and 23 based on the same rationale presented above in regard to Claim 1. Consequently, Applicant respectfully requests reconsideration and withdrawal of the § 103(a) rejection of Claims 14 and 23.

As for Claims 2-13, 15-22 and 24-27, these claims depend from independent Claims 1, 14 and 23, respectively, and thus incorporate all the limitations thereof. For the reasons set forth above, Ellis does not teach or suggest each and every element of these dependent claims. Consequently, Applicant respectfully requests reconsideration and withdrawal of the § 103(a) rejection of these dependent claims.

## CONCLUSION

In view of the foregoing, it is submitted that claims 1-27 patentably define the subject invention over the cited references of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If Examiner believes a telephone conference would be useful in moving the case forward, he is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly, extension of time fees.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR, & ZAFMAN LLP

Dated: December 27, 2006

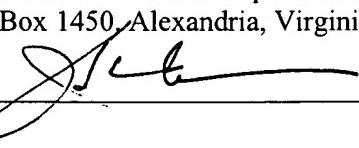
By: 

Jonathan Miller, Reg. No. 48,534

12400 Wilshire Boulevard  
Seventh Floor  
Los Angeles, California 90025  
(310) 207-3800

## CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail with sufficient postage in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, Virginia 22313-1450 on December 27, 2006.

  
Jean Svoboda